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*Attorneys for Defendants
James "Greg" Cox, Timothy Filson,
Dwight Neven, and Ronald Oliver*

IN THE UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

VICTOR PEREZ, as Special Administrator
of the Estate of CARLOS PEREZ,
deceased; VICTOR PEREZ, as the
Guardian Ad Litem for SOPHIA ELISE
PEREZ, a minor; VICTOR PEREZ, as
The Guardian Ad Litem for ALEXANDER
IZRYAL PEREZ, a minor; and MYRA
PEREZ, individually.

Plaintiff,

v.

STATE OF NEVADA; JAMES GREG COX,
DWIGHT NEVEN, TIMOTHY FILSON,
COT RAMOS, LIUETENANT
OLIVER, CORECTIONS OFFICER
CASTRO, CORRECTIONS OFFICER
SMITH, ET AL.

Defendants.

Case No.

PETITION FOR REMOVAL

Defendants James "Greg" Cox, Timothy Filson, Dwight Neven, and Ronald Oliver,¹ by

¹ Plaintiff lists several John Doe defendants in his Complaint whose identities are unknown. Accordingly, the Attorney General's Office does not represent any of the John Doe defendants at this time. While this renders potential John Doe defendants non-consenting parties to the instant removal action, removal under these particular facts is proper due to the lack of prejudice to unknown persons who will simply be brought into the federal suit when identified. See 28 U.S.C. § 1446(a); *Salveson v. Western States Bankcard Ass'n*, 731 F.2d 1423, 1429 (9th Cir. 1984), *overruled on other grounds by Ethridge v. Harbor House Restaurant*, 861 F.2d 1389 (9th Cir. 1988). Similarly, the Attorney General's Office does not represent at this time John-Reynaldo Ramos, Jeff Castro or Isaiah Smith, each of whom no longer work for the Nevada Department of Corrections. At this time, it is unknown whether all of those persons were served or are consenting parties, but removal is nonetheless nonprejudicial to them as they still have time to make appearances assuming they are served.

1 and through counsel, Adam Paul Laxalt, Attorney General of the State of Nevada, and Andrea
 2 R. Barraclough, Chief Deputy Attorney General, hereby notice removal of this action to the
 3 United States District Court, and in support thereof state:

4 1. The Defendants above are named as Defendants in an action commenced in
 5 the Eighth Judicial District Court of the State of Nevada in Las Vegas. The state matter was
 6 assigned Case No. A-15-716601-C and is now pending in that court.

7 2. Service of the summonses and Complaints in the state case upon the Nevada
 8 Department of Corrections occurred on July 15, 2015. Though there is no proof of individual
 9 service upon each of the named Defendants as required by Nevada Rule of Civil Procedure
 10 4(d)(6), defense counsel acknowledges that service would have been acceptable under the
 11 federal court's cooperative agreement with the Nevada Department of Corrections regarding
 12 service. Since the Defendants were going to seek to remove the case to federal court in any
 13 event, such that service would have had to eventually comply with federal and not state rules
 14 anyway, judicial efficiency is best served by agreeing to allow service to stand as of July 15,
 15 2015.²

16 3. The Complaint alleges: 1) a violation of 42 U.S.C. §1983 for excessive force and
 17 medical deliberate indifference; 2) wrongful death per NRS 42.085; 3) Negligent
 18 Training/Retention/Supervision; and 4) Intentional Infliction of Emotional Distress.

19 4. This Court has original jurisdiction over the subject matter of the action under the
 20 provisions of 28 U.S.C. § 1331 in that the action raises federal questions under 42 U.S.C.
 21 §1983 and the United States Constitution. Defendants are entitled to remove the action to the
 22 United States District Court, District of Nevada, pursuant to 28 U.S.C. §§ 1441 and 1443.
 23 Additionally, this honorable Court would have jurisdiction over any properly alleged pendent
 24 state law claims pursuant to 28 U.S.C. § 1441(c); 28 U.S.C. § 1443; and 28 U.S.C. § 1367.

25 5. A copy of the Nevada Department of Corrections Service of Process Form is
 26 attached as Exhibit A. A copy of the Summons is attached as Exhibit B. The Complaint is
 27

28 ² Should removal not occur or should the case be remanded to state court, this acceptance of service
 does not waive any state defenses regarding improper service.

1 attached as Exhibit C. These constitute all of the papers and pleadings served on
2 Defendants.

3 Thus, Defendants remove the action assigned case no. A-15-716601-C now pending in
4 the Eighth Judicial District Court of the State of Nevada in and for Las Vegas to this honorable
5 Court.

6 DATED this 14th day of August, 2015.

7 ADAM PAUL LAXALT
8 Attorney General

9 By Andrea R. Barraclough
10 ANDREA R. BARRACLOUGH
11 Deputy Attorney General
12 Bureau of Litigation
13 Public Safety Division

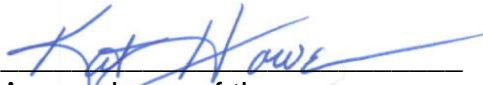
14 *Attorneys for Defendants*
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CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on August 14, 2015, I caused to be deposited for mailing, a true and correct copy of the foregoing, **PETITION FOR REMOVAL**, to the following:

Cal Potter, III
C.J. Potter
Potter Law Offices
1125 Shadow Lane
Las Vegas, NV 89102

Attorney for the Plaintiff


An employee of the
Office of the Attorney General